

**Baker & Hostetler LLP**

45 Rockefeller Plaza  
New York, NY 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Nicholas J. Cremona  
Dean D. Hunt

*Attorneys for Irving H. Picard, Trustee  
for the Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities LLC  
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

GUTMACHER ENTERPRISES, LP, a New York  
Limited Partnership,

THE ESTATE OF BARBARA GIRARD,

Adv. Pro. No. 10-05091 (SMB)

RICHARD WEINBERGER, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard,

SEYMOUR ZISES, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard,

THE ESTATE OF ROSE GUTMACHER,

GEORGE S. KAUFMAN, in his capacity as personal representative of the Estate of Rose Gutmacher,

THOMAS D. KEARNS, in his capacities as personal representative of the Estate of Rose Gutmacher and trustee for the Trust FBO Nicole Girard U/A/D/ 12/2/97,

THE TRUST FBO NICOLE GIRARD U/A/D/ 12/2/97,

THE BARBARA GIRARD TESTAMENTARY TRUST FBO NICOLE GIRARD,

And

NICOLE GIRARD, individually and in her capacity as trustee of the Trust FBO Nicole Girard U/A/D/ 12/2/97,

Defendants.

IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

THE ESTATE OF BARBARA GIRARD,

RICHARD WEINBERGER, in his capacities as personal representative of the Estate of Barbara

Adv. Pro. No. 12-01705 (SMB)

Girard and co-trustee of the Barbara Girard  
Testamentary Trust FBO Nicole Girard,

SEYMOUR ZISES, in his capacities as personal  
representative of the Estate of Barbara Girard and co-  
trustee of the Barbara Girard Testamentary Trust  
FBO Nicole Girard,

THE BARBARA GIRARD TESTAMENTARY  
TRUST FBO NICOLE GIRARD,

Defendants.

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL  
OF ADVERSARY PROCEEDING WITH PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through their counsel, Baker & Hostetler LLP, and Defendants i) Gutmacher Enterprises, LP, a New York Limited Partnership; ii) The Estate of Barbara Girard; iii) Richard Weinberger, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard; iv) Seymour Zises, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard; v) The Estate of Rose Gutmacher; vi) George S. Kaufman, in his capacity as personal representative of the Estate of Rose Gutmacher; vii) Thomas D. Kearns, in his capacities as personal representative of the Estate of Rose Gutmacher and trustee for the Trust FBO Nicole Girard U/A/D 12/2/97; viii) The Trust FBO Nicole Girard U/A/D 12/2/97; ix) The Barbara Girard Testamentary Trust FBO Nicole Girard; and x) Nicole Girard, individually and in her capacity as trustee of the Trust FBO

Nicole Girard U/A/D 12/2/97; by and through their counsel Max Folkenflick of Folkenflik & McGerity (collectively the “Parties”), hereby stipulate and agree to the following:

1. On December 2, 2010, in Adv. Pro. No. 10-05091, the Trustee filed and served his Complaint against Defendants Gutmacher Enterprises, LP, a New York Limited Partnership, Barbara Girard, individually, in her capacity as general partner of Gutmacher Enterprises, LP, trustee of the Trust FBO Nicole Girard U/A/D 12/2/97, and as the personal representative of the Estate of Rose Gutmacher, Estate of Rose Gutmacher, The Trust FBO Nicole Girard U/A/D 12/2/97, and Nicole Girard.

2. On January 16, 2011, Barbara Girard died.

3. On September 20, 2011, in Adv. Pro. No. 10-05091, the Trustee filed and served his Amended Complaint against Defendants Gutmacher Enterprises, LP, a New York Limited Partnership; The Estate of Barbara Girard; Richard Weinberger, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard; Seymour Zises, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard; The Estate of Rose Gutmacher; George S. Kaufman, in his capacity as personal representative of the Estate of Rose Gutmacher; Thomas D. Kearns, in his capacities as personal representative of the Estate of Rose Gutmacher and trustee for the Trust FBO Nicole Girard U/A/D 12/2/97; The Trust FBO Nicole Girard U/A/D 12/2/97; The Barbara Girard Testamentary Trust FBO Nicole Girard; and Nicole Girard, individually and in her capacity as trustee of the Trust FBO Nicole Girard U/A/D 12/2/97.

4. On January 6, 2012, in Adv. Pro. No. 10-05091, Defendants filed their answer to the Trustee’s Amended Complaint.

5. On June 8, 2012, in Adv. Pro. No. 12-01705, the Trustee filed his Complaint against The Estate of Barbara Girard, Richard Weinberger, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard, Seymour Zises, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard, and The Barbara Girard Testamentary Trust FBO Nicole Girard.

6. On January 3, 2013, in Adv. Pro. No. 12-01705, Defendants The Estate of Barbara Girard, Richard Weinberger, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard, Seymour Zises, in his capacities as personal representative of the Estate of Barbara Girard and co-trustee of the Barbara Girard Testamentary Trust FBO Nicole Girard, and The Barbara Girard Testamentary Trust FBO Nicole Girard filed their answer to the Trustee's Complaint.

7. On March 18, 2013, Adv. Pro. No. 12-01705 was consolidated into Adv. Pro. No. 10-05091, to proceed thereafter as Adv. Pro. No. 10-05091.

8. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181], the Parties entered into a Settlement Agreement and Release on April 3, 2017.

9. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal with prejudice of the Trustee's claims against Defendants in the above-captioned adversary proceedings and dismissal of the adversary proceedings with prejudice.

10. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

11. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

12. The Bankruptcy Court shall retain jurisdiction over this Stipulation.

*[Remainder of page intentionally left blank]*

Date: April 24, 2017  
New York, New York

**BAKER & HOSTETLER LLP**

By: /s/ Nicholas J. Cremona  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Nicholas J. Cremona  
Email: ncremona@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities  
LLC and the Estate of Bernard L. Madoff*

Of Counsel:

**BAKER & HOSTETLER LLP**  
811 Main Street, Suite 1100  
Houston, Texas 77002-6111  
Telephone: (713) 751-1600  
Facsimile: (713) 751-1717  
Dean D. Hunt  
Email: dhunt@bakerlaw.com  
Farrell A. Hochmuth  
Email: fhochmuth@bakerlaw.com

**FOLKENFLIK & MCGERITY**

By: /s/ Max Folkenflik  
1500 Broadway, 21<sup>st</sup> Floor  
New York, NY 10036  
Telephone: (212) 757-0400  
Facsimile: (212) 757-2010  
Max Folkenflik  
Email: max@fmlaw.net

*Attorneys for Defendants*

SO ORDERED:

Dated: April 24, 2017  
New York, New York

/s/ STUART M. BERNSTEIN  
Hon. Stuart M. Bernstein  
United States Bankruptcy Judge